

RECORDING REQUESTED BY AND
WHEN RECORDED, MAIL TO:

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

**COVENANT TO RESTRICT USE OF PROPERTY
ENVIRONMENTAL RESTRICTION**

County of Los Angeles, Assessor's Parcel Numbers [6301-008-010, -011, -012, and -013*]

Former Pechiney Cast Plate Facility, Vernon, California [Site No. 301396-00]

This Covenant To Restrict Use of Property ("Covenant") is made and entered into as of the date last written below, by and between Pechiney Cast Plate, Inc. a Delaware corporation ("Pechiney"), the current owner of certain property situated at 3200 Fruitland Avenue, Vernon, County of Los Angeles, State of California, legally described in **Exhibit A** and depicted on **Exhibit B**, (the "Property") and the California Department of Toxic Substances Control (the "Department," which includes its successor agencies, if any). The Department has determined that this Covenant is reasonably necessary to protect present or future human health or safety or the environment as a result of the presence on the land of "Hazardous Materials" (as defined in California Health and Safety Code section 25260 and "Hazardous Substances" (as defined in California Health and Safety Code section 25316) (collectively, "Hazardous Substances"). Pechiney and the Department, collectively referred to as the "Parties," hereby agree, pursuant to California Civil Code section 1471, and California Health and Safety Code sections 25222.1 and 25355.5 that the use of the Property be restricted as set forth in this Covenant; and the Parties further agree that the Covenant conforms with the requirements of the California Code of Regulations, Title 22, section 67391.1. The parties further intend that the provisions of this Covenant shall also be for the benefit of, and enforceable by, the United States Environmental Protection Agency ("EPA") as a third party beneficiary.

**ARTICLE I
STATEMENT OF FACTS**

1.01 The Property consists of four legal parcels, totaling approximately 26.9 acres. The Property is located at the southeasterly corner of the intersection of Boyle Avenue and Fruitland Avenue, and bears Los Angeles County Assessor's Parcel Numbers (APNs) [6301-008-010, -011, -012, and -013.] The Property was used for manufacturing high-precision cast

*Note: These APN's may change when the Property is subdivided.

aluminum plates from about 1937 until about 2005. The Property is currently zoned for industrial use. The future property use will remain industrial or commercial. The surrounding land uses are zoned industrial or commercial.

1.02 Remedial investigations conducted at the Property identified volatile organic compounds ("VOCs"), petroleum hydrocarbons (as Stoddard solvent), polychlorinated biphenyls ("PCBs"), and metals (mainly arsenic) in soil; VOCs and Stoddard solvent in soil vapor; and PCBs in concrete building floor slabs. These investigations also identified VOCs, including trichloroethene, and tetrachloroethene, in groundwater beneath the Property. Groundwater is present at a depth of approximately 145 to 150 feet. Remedial investigation and screening level human health risk assessment ("HHRA") findings for the Property are summarized in the Feasibility Study (AMEC, May 2012). Based on the HHRA, site-specific remediation goals were established for the contaminants in soil vapor, soil, and concrete at the Property under future industrial land use. Potential off-site beneficial use of groundwater was evaluated using maximum contaminant levels ("MCLs").

1.03 Pechiney prepared a Remedial Action Plan (as amended, the "RAP") to mitigate concrete, soil and groundwater impacts at the Property under the oversight of the Department. The RAP was prepared pursuant to an Imminent and Substantial Endangerment Determination and Consent Order signed by Pechiney on June 29, 2010 and by the Department on July 6, 2010. Pursuant to Code of Federal Regulations, Title 40, Subchapter R, Toxic Substances Control Act, EPA has oversight for PCB-impacted soil and concrete. Mitigation of the PCB-impacted concrete and soil was approved by EPA. Pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) the RAP was released for public review and comment and subsequently approved by the Department on June 28, 2012. The RAP was amended by Addendum dated May 20, 2013. Based on site-specific remediation goals developed for contaminants present in concrete, soil, and soil vapor at the Property, impacted media will be mitigated to industrial levels.

1.04 Implementation of the RAP began in December 2012, with the installation of soil vapor extraction ("SVE") systems to mitigate VOC-impacted soil in the northern portion of the Property and Stoddard solvent-impacted soil in the southern portion of the Property. PCB and metals impacted soil were excavated and removed from the Property as described in the RAP. The areas associated with the Property that were mitigated under the RAP are shown on Exhibit C. Currently, operation and maintenance ("O&M") activities for the SVE systems and groundwater monitoring are ongoing. The location of the SVE systems and groundwater monitoring wells are also shown on Exhibit C. The O&M of the SVE systems and groundwater monitoring wells is pursuant to an Operation and Maintenance Agreement between Pechiney and the Department dated XXXXXXX (as amended, the "O&M Agreement").

1.05 Soil remaining in place at depths greater than 15 feet below native grade with PCBs concentration above the approved remediation goal (23 milligrams/kilogram) are covered

with a physical underground warning barrier that consists of a concrete layer covered with an orange liner. The locations of the underground warning barriers are shown in Exhibit D.

1.06 As detailed in the Implementation Reports (dated XXXXX) approved by the Department and EPA, soils within portions of the Property, to a depth of 15 feet or more below the surface, contain hazardous substances, which include the contaminants of concern in the ranges set forth below, and as summarized in Exhibit E. Hazardous Substances remain at the Property above concentrations acceptable for unrestricted land use.

Soil – VOCs, PCBs, TPH (to be updated with final results)

Groundwater- VOCs (to be updated with final results)

1.07 As a result of the presence of Hazardous Substances on the Property, the Department and EPA have concluded that it is reasonably necessary to restrict the use of the Property in order to protect present or future human health or safety or the environment, and that this Covenant is required as part of the Department-approved remedy for the Property. The Department and EPA have also concluded that the Property, as remediated and when used in compliance with the Environmental Restrictions (as defined below), does not present an unacceptable risk to present and future human health or safety or the environment.

ARTICLE II DEFINITIONS

Capitalized terms used in this Covenant, which are not otherwise defined, have the following meanings:

2.01 Engineering Controls means refer to physical structures, such as vapor barriers or caps, which reduce exposure to contaminants.

2.02 Environmental Restrictions means all covenants, restrictions, prohibitions, and other provisions of this Covenant which are protective of the environment, and human health or safety.

2.03 Improvements means all buildings, roads, driveways, paved parking areas, groundwater monitoring wells, soil vapor monitoring probes, SVE systems, and other structures now or hereafter constructed or placed upon the Property.

2.04 Lease means a lease, sublease, rental agreement, or any other document that creates a right to use or occupy all or any portion of the Property.

2.05 Owner means Pechiney and its successors and assigns who hold title to all or any portion of the Property at the time in question.

2.06 Occupant means an Owner, a lessee, and any other person or entity who at any time has the legal right to occupy all or any portion of the Property at the time in question, including any trustee under a deed of trust or mortgage who is in actual possession of the

Property, or any portion thereof.

ARTICLE III GENERAL PROVISIONS

3.01 Run with the Land. This Covenant establishes Environmental Restrictions upon and subject to which the Property and every portion of it shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered, and/or conveyed. Provided that this Covenant is recorded as set forth in Paragraph 7.02, each and every one of the Environmental Restrictions: (a) shall run with the land pursuant to California Civil Code Section 1471, and shall be binding on all Owners and other Occupants; (b) are for the benefit of, and shall be enforceable by the Department and EPA; and (c) are imposed upon the entire Property unless expressly stated as applicable only to a specific portion of the Property.

3.02 Incorporation into Deeds and Leases. This Covenant and the Environmental Restrictions shall be incorporated by reference in all deeds and Leases for all or any portion of the Property.

3.03 Conveyance of Property. Any new Owner shall provide notice to the Department not later than 30 days after the conveyance of any ownership interest in the Property (excluding Leases, deeds of trust, mortgages, liens, and other non-possessory interests). The notice shall include the name and address of the transferee, the Department's Site Code (301396-00), and Assessor's Parcel Numbers. Neither the Department nor EPA shall by reason of this Covenant, have authority to approve, disprove, or otherwise affect the proposed conveyance, except as otherwise provided by law.

3.04 Costs for Administering the Covenant. The Department has already incurred and will in the future incur costs associated with the administration of this Covenant. Therefore, Pechiney hereby covenants for itself and for all subsequent Owners that pursuant to the California Code of Regulations, Title 22, section 67391.1(h), Owner shall pay the Department's reasonable costs in administering this Covenant. If there are multiple Owners, the foregoing costs shall be apportioned among the Owners as set forth in California Civil Code Section 1471(c).

ARTICLE IV USE RESTRICTIONS AND REQUIREMENTS

4.01 Permitted and Prohibited Uses. The Property shall only be used for industrial and commercial purposes. The Property shall not be used for any of the following purposes:

- (a) A residence, including any mobile home or factory built housing, constructed or installed for use as residential human habitation.
- (b) A hospital for humans.
- (c) A public or private school for persons under 21 years of age.

(d) A day care center for children.

4.02 Advisory for Subsurface Work. Owner (or any lessee, as applicable) shall notify any contractor engaged by Owner to perform work involving contact with subsurface soils of the presence of Hazardous Substances in the subsurface.

4.03 Soil Management. Soil management activities at the Property are also subject to the following requirements:

(a) No soil disturbing activities (e.g., excavation, grading, removal, trenching, filling, earth moving, or mining) shall be permitted without a soil management plan and a health and safety plan approved by the Department and EPA. Any contaminated soils brought to the surface by grading excavation, trenching, or backfilling shall be managed in accordance with all applicable provisions of state and federal laws and the remediation goals established in the RAP.

(b) No activities that disturb the underground warning barriers, or any Engineering Controls (e.g., by excavation, grading, removal, trenching, filling, earth moving, or mining) shall be permitted without a soil management plan and a health and safety plan approved by the Department and EPA.

(c) Owner (or any lessee, as applicable) shall provide the Department and EPA notice at least 14 days prior to any building, filling, grading, or excavating or other activities on the Property which will disturb the underground warning barriers, any contaminated soil, or any Engineering Controls.

4.04 Structures Remaining in Place. The locations of structures that remain in place at depths of 10 feet and 15 feet below native grade (including deep soil containing PCBs) are shown on Exhibit D.

4.05 Non Interference with Groundwater Monitoring Wells, Remediation Systems or Engineering Controls

(a) No activities that may disturb the integrity of the SVE systems or the groundwater monitoring wells shall be permitted without prior written consent of the Department and EPA.

(b) No activities that may disturb the integrity of any Engineering Controls shall be permitted without prior written consent of the Department and EPA.

(c) All uses or activities conducted on the Property shall preserve the physical accessibility to and integrity of, the SVE systems, the groundwater monitoring wells and any Engineering Controls.

(d) Owner (or lessee, as applicable) shall notify the Department and EPA within 14 days after receiving actual knowledge of damage to any SVE system, groundwater monitoring well, or Engineering Controls on the Property.

4.06 Prohibited Activities. In addition to the restrictions on use set forth in Paragraph 4.01, any activity (other than those required under the RAP) that would access, extract or use groundwater within the first water-bearing unit beneath the Property shall be prohibited without prior written consent of the Department.

4.07 Access. The Department and EPA shall have reasonable right-of-entry and access to the Property at reasonable times during ordinary business hours upon reasonable advance notice to Owner or other Occupants, for the purposes of inspection, monitoring (including periodic reviews) and other activities consistent with the purposes of this Covenant or as deemed necessary by the Department in order to protect the public health or safety, or the environment. Owner or other Occupants may be present at the time of any such entry.

4.08 Access for Implementing Operation and Maintenance. Any person or entity responsible for implementing the O&M Agreement activities shall have reasonable right of entry and access to the Property at reasonable times during ordinary business hours upon reasonable advance notice for the purpose of implementing such activities until the Department determines that no further O&M Agreement activities are required. Owner or other Occupants may be present at the time of any such entry. All remediation systems associated with the Operation and Maintenance activities which are described in the RAP (including SVE systems, bioventing systems and groundwater monitoring wells) shall remain at the Property until the Department grants environmental closure.

4.09 Limitations on Access. Prior to the entry onto the Property by any person pursuant to Paragraphs 4.07 or 4.08, the person entering the Property (other than an employee of DTSC or EPA) shall provide Owner with evidence of commercially reasonable liability insurance coverage insuring against personal injury and property damage. Further, any entry onto the Property by any person pursuant to Paragraphs 4.07 and 4.08 shall be at the sole risk of such person, and Owner shall not be liable for any damage to such person or such person's property, except to the extent caused by the gross negligence or willful misconduct of Owner.

ARTICLE V ENFORCEMENT

5.01 Enforcement. Failure of any person or entity obligated hereunder to comply with this Covenant shall be grounds for the Department or EPA to require modification or removal of any Improvements constructed or placed upon the Property in violation of this Covenant. Violations of this Covenant, including but not limited to, failure to submit any required reports or other materials to the Department or EPA, or the submission of any false statement, record or report to the Department or EPA, shall be grounds for the Department or EPA to pursue any administrative, civil, or criminal actions which are available at law.

**ARTICLE VI
VARIANCE, TERMINATION AND TERMS**

6.01 Variance from Environmental Restriction. Any Owner (or with the Owner's written consent, any Occupant), may apply to the Department or EPA for a written variance from the provisions of this Covenant. Such application shall be made in accordance with California Health and Safety Code section 25223.

6.02 Removal of Environmental Restrictions. Any Owner (or with the Owner's written consent, any Occupant), may apply to the Department or EPA to remove or terminate any Environmental Restriction imposed by this Covenant. Such application shall be made in accordance with California Health and Safety Code section 25224.

6.03 Term. Unless terminated in accordance with Paragraph 6.02, by law, or by the Department or EPA in the exercise of its discretion, this Covenant shall continue in effect in perpetuity.

**ARTICLE VII
MISCELLANEOUS**

7.01 No Dedication Intended. Nothing set forth in this Covenant shall be construed to be a gift or dedication, or offer of a gift or dedication, of the Property, or any portion of the Property, to the general public or to any other person or entity.

7.02 Recordation. Pechiney shall record this Covenant in the Office of the County Recorder of Los Angeles County, California, within ten (10) days of receipt of a fully executed original from the Department.

7.03 Notices. Notice (which term, as used herein, includes any demand or other communication) with respect to this Covenant, shall be deemed effective: (1) when delivered personally or by a nationally recognized overnight delivery service, when personally delivered to the person or the duly authorized officer or other agent of any entity (including any governmental agency) being served, or (2) three (3) business days after deposit in the mail, if sent by United States mail, postage paid, certified, return receipt requested, as follows:

To Pechiney:

Pechiney Cast Plate Inc.

Attn: _____
4700 Daybreak Parkway
South Jordan, Utah 84095

To the Department:

_____, Chief
Department of Toxic Substances Control

Attn: _____

To EPA:

US EPA Region 9
TSCA Coordination Group

Either party or EPA may change its address by giving Notice in compliance with this paragraph.

7.04 Partial Invalidity. If this Covenant or any of its terms are determined by a court of competent jurisdiction to be invalid for any reason, the surviving portions of this Covenant shall remain in full force and effect as if such portion found invalid had not been included herein.

7.05 Statutory References. All statutory references include successor provisions.

7.06 Incorporation of Exhibits. All exhibits to this Covenant are incorporated herein by reference.

7.07 Governing Law. This Covenant is entered into in the State of California and shall be interpreted in accordance with the laws of the State of California.

7.08 Authority/Counterparts. The parties each represent that they possess all necessary capacity and authority to sign and enter this Covenant. All individuals signing this Covenant for a party which is a corporation, a partnership, or other legal entity, or signing pursuant to a power of attorney or in any other legal capacity, covenant that they have the necessary capacity and authority to act for, sign, and bind the respective entity or principal on whose behalf they are signing. This Covenant may be signed in multiple counterparts and by the parties in separate counterparts. Each counterpart shall be deemed an original and all of the counterparts together shall constitute one agreement between the parties signing the counterparts.

EXHIBITS (to be added)

Exhibit A – Legal description of the Property

Exhibit B – Site Plan

Exhibit C – Areas of Property Mitigated/Location of SVE Systems and
Groundwater Monitoring Wells

Exhibit D – Locations of Underground Warning Barriers and Structures
Remaining in Place Below 10/15 Feet

Exhibit E – Summary of Implementation Report Information

Exhibit F – Certain Required Documentation as Required by EPA
2009 PCB Application, Application Amendments, and the July 2, 2010 and

July 1, 2011 Conditional approval letters and attachments.

IN WITNESS WHEREOF, the parties have executed this Covenant as of the dates written below.

PECHINEY

Pechiney Cast Plate, Inc.
a Delaware corporation

By: _____
William Adams
Title: President
Date: _____

DEPARTMENT

California Department of Toxic Substances Control

By: _____
Title: _____
Date: _____

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

On _____, 2014 before me,

a Notary Public, personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s)
is/are subscribed to the within instrument and acknowledged to me that he/she/they executed
the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the
instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the
instrument.

I certify under Penalty of Perjury under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public _____ (Seal)

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

On _____, 2014 before me,

a Notary Public, personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s)
is/are subscribed to the within instrument and acknowledged to me that he/she/they executed
the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the
instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the
instrument.

I certify under Penalty of Perjury under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public _____ (Seal)